

**REMARKS**

Reconsideration of this application is respectfully requested.

Claims 1-23 were previously canceled. The Examiner withdrew claims 24-67 and 78-101 from consideration as drawn to non-elected inventions. For that reason those claims are canceled herein. Claims 68-70 are also canceled herein without prejudice or disclaimer. Applicant reserves the right to prosecute those claims in a continuation application.

Claims 71, 75, and 76 are amended to incorporate most of the recitations of canceled claim 68, from which claims 71, 75, and 76 previously depended. Claims 71, 76, and 77 have been made independent. The claim amendments find support in the application as filed and do not introduce new matter.

Claims 71-77 are pending and stand rejected.

The Office indicated that Applicant had not perfected its foreign priority claims because certified translations of priority Applications PCT/FR90/00185 and FR 89 03630 have not been filed in this application. Office Action at Item 2. Applicant submits that on December 19, 1990, a certified translation of Application No. PCT/FR90/00185 was filed in Application No. 07/598,679, to which this application claims priority. Applicant submits that on June 11, 1998, a certified translation of Application No. FR 89 03630 was filed in Application No. 08/301,037, to which this application claims priority. As provided in M.P.E.P. 201.14(b)(II), Applicant submits that no submission of further certified copies is required in the instant application and courteously requests that the Office acknowledge that the required certified translations of the priority applications have been filed.

Claims 68-77 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Office Action at Item 3. Specifically, the Examiner expressed concern that it is not clear whether the recitation, “the expression product of said DNA construct,” refers to the first or second gene product. In response, Applicant notes that the amended claims recite “DNA construct,” “first DNA sequence,” and “second DNA sequence.” As made clear by the language of the claims, the “DNA construct” comprises the “first DNA sequence” and the “second DNA sequence.” The “first DNA sequence” encodes a “first gene product” and the “second DNA sequence” encodes a “second gene product.” Thus, when the claims recite “the expression product of said DNA construct,” that recitation is referring back to the entire DNA construct, and not specifically referring to either the “first DNA sequence” or “first gene product,” or the “second DNA sequence” or “second gene product.”

Claims 68-70 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Song et al., *PNAS USA*, 84(19), ppl 6820-24 (1987) (“Song”). Office Action at Item 4. Applicant has canceled those claims herein, thus rendering that rejection moot. Applicant requests that the Office withdraw the rejection.

Claims 68-77 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,514,752 (“the ‘752 patent”). Office Action at Item 5. The Office acknowledges that once Applicant perfects its foreign priority claim the ‘752 patent will be removed as prior art. As described above, Applicant has now perfected its foreign priority claim and the ‘752 patent is not prior art to this application. Accordingly, Applicant requests that the Office withdraw this rejection.

Applicant respectfully submits that claims 71-77 are in condition for allowance.

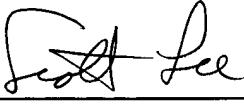
Issuance of a Notice of Allowance is earnestly requested.

If there is any fee due in connection with the filing of this Reply, please charge the fee to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 13, 2007

By:   
\_\_\_\_\_  
Scott M. K. Lee  
Reg. No. 59,574  
Tel. 202-408-6073  
Fax. 202-408-4400  
E-mail: scott.lee@finnegan.com